

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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GARY FRIEDRICH ENTERPRISES, LLC, et al.,

08-CV-01533 (BSJ)(JCF)

Plaintiffs,

-against-

MARVEL ENTERPRISES, INC., et al.,

Defendants.

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**ORDER DIRECTING SEPARATE TRIALS**

ORDERED, pursuant to Rule 42(b) of the Federal Rules of Civil Procedure, in the furtherance of the convenience of all parties, the avoidance of prejudice and in the interests of expedition and economy, separate trials shall be conducted in the above-captioned action. The first trial will determine all issues with respect to:

(A) the current and past ownership of the copyright(s) covering that certain comic book published in 1972 known and referred to as "Spotlight No. 5" including any character appearing therein and/or any copyright(s) covering any other material created by plaintiff Gary Friedrich which may be the subject of an amended complaint in this action (the "Work") including:

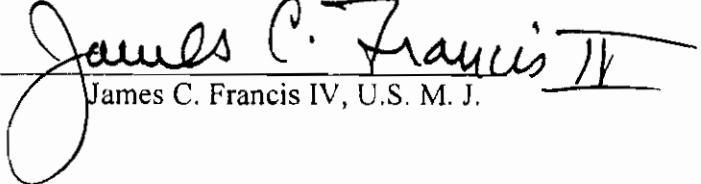
- 1) whether the Work was created as a work made for hire,
- 2) whether the Work was created as a joint work,
- 3) the identity of the creator or creators of the Work,
- 4) whether Marvel Entertainment, LLC or any of its affiliates succeeded to ownership rights in the Work,

- 5) whether Gary Friedrich Enterprises, LLC or any of its affiliates succeeded to ownership rights in the Work
- 6) whether any defendant had the right to exercise any of the rights specified in 17 U.S.C. § 106 with respect to the Work after December 31, 1999 or to grant others the right to exercise after December 31, 1999 any of the rights specified in 17 U.S.C. § 106 with respect to the Work, and
- 7) any issues raised by the affirmative defenses asserted by defendants; and

(B) the extent, if any, to which any of the alleged infringing works contains material to which plaintiffs have no legally cognizable ownership claim and whether any defendant was entitled to profit therefrom.

If necessary, a second trial will be conducted to determine damages and any other liability issues. All discovery regarding issues that will not be the subject of the first trial is hereby stayed until a determination of such issues by trial or otherwise has been made.

Dated: New York, New York  
August 3, 2010



James C. Francis IV, U.S. M. J.

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